

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BAIS YAAKOV OF SPRING VALLEY,

Plaintiff,

v.

GRADUATION SOURCE, LLC; GRADUATION
SOLUTIONS LP, AND JESSE ALEXANDER,

Defendants.

Case No. 7:14-cv-03232 (NSR)

ORDER

WHEREAS Plaintiff Bais Yaakov of Spring Valley (“Bais Yaakov”) filed a Complaint on May 5, 2014 (the “Complaint”) asserting individual claims based upon three violations of the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227, arising from Defendants’ alleged failure to include a proper opt-out notice on two fax advertisements that it sent by fax to the Plaintiff as well as putative class claims on behalf of an uncertified class;

WHEREAS on May 7, 2014, the Court issued an Order denying Plaintiff’s motion for class certification, and no class has been certified to date;

WHEREAS on December 14, 2015, this Court issued an Opinion & Order in which it found that Plaintiff would be entitled to recover \$1,500 for each of the two fax advertisements for a total of \$3,000 on its individual claims, in addition to treble damages provided for by the TCPA, for a total of \$9,000.00 in statutory damages provided for by the TCPA;

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WHEREAS Plaintiff's Complaint also seeks statutory damages pursuant to the N.Y. General Business Law ("GBL") § 396-aa(1) for each of the two fax advertisements and the maximum amount recoverable under GBL § 396-aa(1) is \$100.00;

WHEREAS Defendants Graduation Source LLC, Graduation Solutions LP (together referred to as "Graduation Source") and Jesse Alexander ("Alexander") (collectively referred to herein as "Defendants") have advised the Court that they would promptly pay full amount recoverable on Plaintiff Bais Yaakov of Spring Valley's ("Plaintiff") individual claims in the amount of \$9200.00, into the Court's registry and consent to the injunctive relief sought by Plaintiff individually so that the Court could enter judgment in Plaintiff's favor and February;

IT IS HEREBY ORDERED that Defendants shall be enjoined from sending any facsimiles to Plaintiff that would violate the TCPA or state law to Plaintiff, and from otherwise communicating with Plaintiff in any manner that violates the TCPA;

IT IS FURTHER ORDERED that the Court's Finance Unit accept payment of \$9200.00 from Defendants and place the funds in an escrow account for the benefit of Plaintiff as beneficiary. The Finance Unit shall not pay the funds out to Plaintiff, or its counsel, without the express, written order of the Court;

IT IS FURTHER ORDERED that upon Defendants' payment of \$9200.00 into the Court's Finance Unit, the Plaintiff show cause within 30 days thereof why the Court should not enter judgment in favor of Plaintiff.

Dated: February 2nd, 2016
White Plains, New York

SO ORDERED:

NELSON S. ROMÁN
United States District Judge